



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/166,496	10/05/1998	HOLGER BELLMANN	10191/821	9214

26646 7590 06/06/2003

KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

EXAMINER

BROADHEAD, BRIAN J

ART UNIT	PAPER NUMBER
----------	--------------

3661

DATE MAILED: 06/06/2003

24

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/166,496

Applicant(s)

BELLMANN ET AL.

Examiner

Brian J. Broadhead

Art Unit

3661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-10 is/are allowed.
- 6) ☒ Claim(s) 1-7, 11-16 and 20 is/are rejected.
- 7) ☒ Claim(s) 17-19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 October 1998 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1, 3, 12, and 14, are rejected under 35 U.S.C. 102(b) as being anticipated by Sherrod, 4642756.

2. As per claim 1 and 12, Sherrod discloses a plurality of activatable modules with corresponding priority values on lines 14-16, on column 3; a scheduler activating the modules as a function of the corresponding priority values on lines 20-22, on column 3; the activates modules generating data by analyzing the states of the system on lines 1-8, on column 4; and a priority manager modifying the corresponding priority value of at least one of the modules to one of increase and decrease the respective corresponding priority value relative to the priority value of another of the activatable modules on lines 35-42, on column 4.

3. As per claim 3 and 14, Sherrod discloses the priority manager modifies the corresponding priority of the module as a function of the states of the system on lines 35-37, on column 4.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3661

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2, 4, 13, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sherrod, 4642756, in view of Yount, 4787041.

Sherrod discloses the limitations as set forth above. Sherrod does not disclose the priority manager modifying the corresponding priority value of a module as a function of a time period in which the module is one of activated and deactivated. Yount teaches of a priority manager modifying the corresponding priority value of a module as a function of a time period in which the module is one of activated and deactivated on lines 41-44, on column 3. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the priority changing based on the time activated of Yount, in the invention of Sherrod because such modification would prevent an I/O device fault from being propagated onto the bus so as to cause a total bus failure as stated on lines 53-54, on column 3 of Yount.

6. Claims 5, 6, 11, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sherrod, 4642756, in view of Kirstein, 4653003.

Sherrod discloses all the limitations as set forth above. Sherrod does not disclose the priority manager modifying the corresponding priority value of a particular module of the activatable modules as a function of an activation message which indicates that the particular module has been activated; modifies the corresponding priority value of the particular module as a further function of a corresponding deactivation message; the scheduler verifies that the first and third modules are

activated and the unselected modules are not activated; and the system includes one of a motor vehicle. Kirstein teaches of a priority manager modifying the corresponding priority value of a particular module of the activatable modules as a function of an activation message which indicates that the particular module has been activated on lines 26-33, on column 9; modifies the corresponding priority value of the particular module as a further function of a corresponding deactivation message on lines 35-41, on column 9; the scheduler verifies that the first and third modules are activated and the unselected modules are not activated in figure 1, items 1-6; and the system includes one of a motor vehicle on line 9, on column 1. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the priority changing, the activation checking, and the vehicle of Kirstein in the invention of Sherrod because such modification would provide an invention that monitors critical variables and takes steps such that when a malfunction occurs, the equipment will not be damaged as stated on lines 23-25, on column 1, of Kirstein.

7. Claims 7 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sherrod, 4642756, in view of Kephart, 5563452.

Sherrod discloses the limitations as set forth above. Sherrod does not disclose the priority manager modifying the corresponding priority value of a particular module of the activatable modules as a function of absolute time signals. Kephart teaches of a priority manager modifying the corresponding priority value of a particular module of the activatable modules as a function of absolute time signals on lines 29-39, on column 2. It would have been obvious to one of ordinary skill in the art at the time the invention

was made to use the absolute times of Kephart in the invention of Sherrod because such modification would provide a device or system which automatically operates without human intervention, at selected time periods, to turn the data communication system on so that data communications can be implemented prior to the user's utilization of the system as stated on lines 8-13, on column 2, of Kephart.

Allowable Subject Matter

2. Claim 8, 9, and 10 are allowed.
3. Claims 17, 18, and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
4. The following is a statement of reasons for the indication of allowable subject matter: The prior art does not disclose selecting a first module with the highest priority for activation wherein the scheduler assembles a residual set of modules from the set of activatable modules wherein the scheduler selects a third module from residual set of the activatable modules for activation; and wherein the scheduler repeatedly selects a third module, each of the third modules having a respective highest priority wherein the scheduler assembles the residual set of the activatable modules which exclude the third modules already selected for activation and fourth modules that must not be activated simultaneously with the third modules, wherein the scheduler selects repeatedly until the residual set does not contain any of the activatable modules.

Response to Arguments

5. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection. Sherwood has been cited since he clearly discloses the priority of the module or task being modified.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian J. Broadhead whose telephone number is 703-308-9033. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William A. Cuchlinski can be reached on 703-308-3873. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

BJB
November 8, 2002


WILLIAM A. CUCHLINSKI, JR.
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600